

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

NETLIST, INC.

v.

MICRON TECHNOLOGY, INC.,
et al

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CASE NO. 2:22-cv-00294-JRG

**MINUTES FOR PRETRIAL CONFERENCE – DAY 1
HELD BEFORE U. S. DISTRICT JUDGE RODNEY GILSTRAP
March 6, 2024**

OPEN: 09:03 AM

ADJOURN: 04:30 PM

ATTORNEYS FOR PLAINTIFF:

See attached

ATTORNEYS FOR DEFENDANTS:

See attached

LAW CLERKS:

Dylan Freeman
Jeffrey Jacobsen
Amy Wann

COURT REPORTER:

Shawn McRoberts, RMR, CRR

COURTROOM DEPUTY:

Andrea Brunson, CP

<u>TIME</u>	<u>MINUTE ENTRY</u>
09:03 AM	Court opened.
09:03 AM	Court called for announcements from counsel.
09:05 AM	Court provided instructions and housekeeping matters to the parties. Case is currently set for jury selection and trial on Monday, April 22, 2024. However, the Court is contemplating moving the trial date to Monday, April 29, 2024. Trial will begin following empanelment of jury. Eight jurors will be selected. Peremptory strikes: Four per side. <i>Voir dire</i> : 30 minutes per side. The parties will be given 11 hours per side for the jury trial portion. Opening statements: 30 minutes per side. Closing arguments: 40 minutes per side. Court to be notified by 10:00 PM each night of disputes/objections not resolved through meet and confer efforts. Three (3) jointly prepared three-ring binders with disputed information are to be submitted to the Court by 7:00 AM the following day. The Court will be available in chambers by 7:30 AM every morning to take up any housekeeping matters or late-arriving disputes that might come up during trial. Deposition-clip objections and/or disputes are to be taken up by the Court the day

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	before the day such deposition is to be used. Deposition clips should be accompanied by closed-captioning. Court encouraged the parties to utilize the meet and confer process during the course of the trial to resolve disputes. It is the Court's intention to bring the jury in every morning at 8:30 AM. Lunch will be brought in daily for the jurors. Rule 50(a) motions will be heard by the Court after all the evidence is in and both parties have rested. Court will conduct an informal charge conference (off the record) in chambers after the close of evidence. Formal charge conference will follow thereafter and on the record. Court reminded counsel not to refer to individuals by their first names, and to advise their respective witnesses re: same. Court instructed counsel to refer to the Court's Standing Order re: the sealing of the courtroom re: confidential or highly sensitive testimony. Court instructed the parties to follow the instructions from Deputy Clerk in Charge, Mrs. Kecia Clendening re: receipt, review and return of the Juror Questionnaires. Court instructed the parties to refer to the Court's Standing Order re: number and use of pre-admitted exhibits. Parties to be prepared every morning of trial to read into the record those exhibits used prior day. Twelve juror notebooks to be delivered to chambers no later than 12:00 PM noon one week before jury selection. Notebooks to contain: Complete copies of each patent-in-suit (single-sided); claim construction chart (single-sided); page for each witness with a head and shoulder photograph, name and ruled lines for notetaking; three-hole punch notepad for further notes and a non-clicking pen. Each witness page should be tabbed for easy navigation. A reminder that expert witnesses are confined to the four corners of their report. Expert report notebooks to be delivered to chambers no later than 12:00 PM noon one week before jury selection containing printed copies of each updated report (single-sided). Also, a digital copy be furnished to the Court.
09:20 AM	Court proceeded with hearing argument re: the following disputed dispositive motions:
09:21 AM	[SEALED] Plaintiff's Motion for Summary Judgment That The Asserted Patents Are Not Standard Essential (Dkt. No.362).
09:21 AM	Mr. Sheasby presented argument for Plaintiff.
09:29 AM	Responsive argument by Mr. Enzminger for Defendants.
09:34 AM	Rebuttal argument by Mr. Sheasby for Plaintiff.
09:35 AM	Court GRANTED Dkt. No. 362.
09:36 AM	Court did not hear argument re: [SEALED] Plaintiff's Motion for Summary Judgment Dismissing Micron's Affirmative Defense of Breach of RAND Obligation or in the Alternative for Severance (Dkt. No. 340). In keeping with its previous ruling re: Dkt. No. 362, Court GRANTED Dkt. No. 340.
09:37 AM	Court heard argument re: [SEALED] Defendants' Motion for Summary Judgment of Noninfringement of U.S. Patent Nos. 7,619,912 and 11,093,417 (Dkt No. 345).
09:37 AM	Mr. Park presented argument for Defendants.
09:46 AM	Responsive argument by Mr. Rowles for Plaintiff.
09:57 AM	Rebuttal argument by Mr. Park for Defendants.
10:01 AM	Court DENIED Dkt. No. 345 in its entirety.
10:03 AM	Court heard argument re: [SEALED] Defendants' Motion to Strike Expert Report of Dr. Mangione-Smith (Dkt No. 369).
10:03 AM	Mr. Rueckheim presented argument for Defendants.
10:11 AM	Responsive argument by Mr. Rowles for Plaintiff.

TIME	MINUTE ENTRY
10:18 AM	Rebuttal argument by Mr. Rueckheim for Defendants.
10:19 AM	Court made rulings as set forth in the record on a portion of Dkt. No. 369. Remainder CARRIED by the Court.
10:23 AM	Court heard argument re: [SEALED] Defendants' Motion for Summary Judgment of Lack of Written Description for U.S. Patent No. 11,093,417 (Dkt No. 370).
10:23 AM	Mr. Rueckheim presented argument for Defendants.
10:35 AM	Responsive argument by Mr. Sheasby for Plaintiff.
10:44 AM	Rebuttal argument by Mr. Rueckheim for Defendants.
10:49 AM	Recess.
11:17 AM	Court reconvened.
11:17 AM	Court DENIED Dkt. No. 370.
11:18 AM	Court made rulings as set forth in the record re: CARRIED portion of Dkt. No. 369.
11:19 AM	Court heard argument re: [SEALED] Plaintiff's Motion to Strike Certain Opinions of Defendants' Expert Dr. Harold Stone (Dkt. No. 364).
11:20 AM	Mr. Tezayan presented argument for Plaintiff.
11:40 AM	Responsive argument by Mr. Rueckheim for Defendants.
11:52 AM	Rebuttal argument by Mr. Tezayan for Plaintiff.
11:53 AM	Court made rulings as set forth in the record re: Dkt No. 364.
12:00 PM	Recess for lunch break.
01:13 PM	Court reconvened.
01:13 PM	Ms. Truelove requested the excusal of Mr. Rowles's attendance for the remainder of today's proceedings. Court granted leave and Mr. Rowles excused. Mr. Melsheimer requested excusal in the event today's proceedings carry over. Court granted leave and Mr. Melsheimer excused from attending tomorrow's proceedings.
01:16 PM	Court heard argument re: [SEALED] Plaintiff's Motion for Summary Judgment on Defendants' Affirmative Defenses (Dkt. No. 366).
01:16 PM	Mr. Strabone presented argument for Plaintiff.
01:23 PM	Responsive argument by Mr. Mann for Defendants.
01:34 PM	Rebuttal argument by Mr. Strabone for Plaintiff.
01:35 PM	Court made rulings as set forth in the record re: Dkt. No. 366.
01:39 PM	Court heard argument re: [SEALED] Defendants' Motion for Summary Judgment on Pre-Suit Damages (Dkt. No. 367).
01:39 PM	Mr. Enzminger presented argument for Defendants.
01:49 PM	Responsive argument by Mr. Payne for Plaintiff.
01:59 PM	Rebuttal argument by Mr. Enzminger for Defendants.
02:01 PM	Court made rulings as set forth in the record re: Dkt No. 367.
02:02 PM	Court heard argument re: [SEALED] Defendants' <i>Daubert</i> Motion and Motion to Strike Expert Testimony of Mr. David Kennedy (Dkt. No. 360).
02:02 PM	Mr. Enzminger presented argument for Defendants.
02:15 PM	Responsive argument by Mr. Sheasby for Plaintiff.
02:25 PM	Rebuttal argument by Mr. Enzminger for Defendants.
02:27 PM	Court made rulings as set forth in the record re: Dkt. No. 360.
02:30 PM	Court heard argument re: [SEALED] Plaintiff's Motion to Strike Opinions of Dr. Matthew Lynde (Dkt. No. 354).

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02:31 PM	Mr. Strabone presented argument for Plaintiff.
02:50 PM	Responsive argument by Mr. Enzminger for Defendants.
03:05 PM	Rebuttal argument by Mr. Strabone for Plaintiff.
03:11 PM	Court made rulings as set forth in the record re: Dkt. No. 354.
03:17 PM	Recess.
03:40 PM	Court reconvened.
03:41 PM	Court heard argument re: [SEALED] Plaintiff's Motion to Strike Certain Opinions of Defendants' Expert, John B. Halbert (Dkt. No. 358).
03:43 PM	Mr. Payne presented argument for Plaintiff.
03:54 PM	Responsive argument by Mr. Mann for Defendants.
03:59 PM	Rebuttal argument by Mr. Payne for Plaintiff.
03:59 PM	Court DENIED Dkt. No. 358 in its entirety.
04:01 PM	Court heard argument re: [SEALED] Defendants' <i>Daubert</i> Motion and Motion to Strike Expert Testimony of Peter Gillingham (Dkt. No. 368).
04:01 PM	Mr. Mann presented argument for Defendants.
04:05 PM	Responsive argument by Ms. Zhao for Plaintiff.
04:16 PM	Court made rulings as set forth in the record re: Dkt. No. 368.
04:19 PM	Court did not hear argument and made the following rulings as set forth in the record: <ul style="list-style-type: none"> • Dkt. No. 607: DENIED; • Dkt. No. 608: GRANTED; • Dkt. No. 40: GRANTED with instructions; • Dkt. No. 660: DENIED.
04:23 PM	Conclusion of arguments re: dispositive motions.
04:23 PM	Court to recess for the day and will take up disputed MILs in the morning followed by pre-admission of exhibits.
04:24 PM	Court directed the parties to actively engage in discussion re: MIL issues and narrowing of exhibit disputes.
04:25 PM	Court to reconvene at 9:00 AM tomorrow morning.
04:30 PM	Court adjourned.